

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ABU DHABI COMMERCIAL BANK, et al.,
Together and on Behalf of All Others Similarly
Situated,

Plaintiffs,

- against -

MORGAN STANLEY & CO.
INCORPORATED, et al.,

Defendants.
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Civil Action No. 1:08-cv-07508-SAS
ECF Case

**DEFENDANTS' OPPOSITION
TO PLAINTIFFS' APPLICATION
FOR ISSUANCE OF A LETTER
OF REQUEST FOR
INTERNATIONAL JUDICIAL
ASSISTANCE**

Defendants Morgan Stanley & Co. Incorporated, Morgan Stanley & Co.
International Limited, Standard & Poor's Ratings Services, The McGraw Hill
Companies, Inc., Moody's Investors Service, Inc. and Moody's Investors Services Ltd.
hereby oppose plaintiffs' Application for Issuance of a Letter of Request for International
Judicial Assistance to permit deposition testimony from Tim Armstrong, Gregg Drennan,
Dorothee Fuhmann, Kai Gilkes, Perry Inglis, and Henry Tabe.

Plaintiffs' application violates Rule 30(a)(2) of the Federal Rules of Civil
Procedure, which provides that "[a] party must obtain leave of court . . . if the parties
have not stipulated to the deposition and . . . the deposition would result in more than 10
depositions being taken under this Rule or Rule 31 by the plaintiffs." Indeed, this Court,
at an April 21, 2010 conference, reinforced to plaintiffs that "there are only ten because
that's what the federal laws say. Unless and until I grant you leave to take more than ten,
it's exactly ten." (Tr. of April 21, 2010 Conf. at 3:21-23.) To date, Plaintiffs have
noticed or taken a total of nine depositions in this case, yet in the pending application

seek an additional six depositions, which would result in total of fifteen depositions noticed or taken by plaintiffs.¹ Plaintiffs have obtained neither the consent of defendants nor leave of Court to exceed the depositions permitted under the Federal Rules. Indeed, plaintiffs have not sought either, nor acknowledged that their pending application would result in a violation of the Federal Rules. If plaintiffs believe they are entitled to more than ten depositions, that issue should be addressed directly and decided by the Court, not presupposed as it is in plaintiffs' application.

For the foregoing reasons, the Court should deny plaintiffs' application.²

Dated: New York, New York
October 18, 2010

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¹ During the class certification stage, plaintiffs took one 30(b)(6) deposition of each of the three defendants and since that time have noticed the depositions of Rany Moubarak, Robert Rooney, Lapo Guadagnolo, David Rosa, Frank Raiter and, earlier today, Ilya Eric Kolchinsky.

² Defendants do not address herein additional deficiencies under English law, but reserve the right to oppose the application on those grounds.

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